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ALEXANDER L. STEVAS,
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No. 81-1958

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1981

Arizona Electric Power Cooperative, Inc.,

Petitioner,

v.

Mid Louisiana Gas Company, et al.,

Respondents.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

RESPONSE OF CONSOLIDATED GAS SUPPLY CORPORATION TO MOTION OF ARIZONA ELECTRIC POWER COOPERATIVE, INC. FOR CONTEMPORANEOUS CONSIDERATION AND DISPOSITION OF PETITIONS FOR CERTIORARI

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Consolidated Gas Supply Corporation ("Consolidated"), 1/ one of the Respondents in No. 81-1958, hereby responds in opposition to the Motion of Arizona Electric Power Cooperative, Inc. ("AEPCO") For Contemporaneous Consideration And Disposition of Petitions For Certiorari, received by Consolidated on

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1/ Consolidated Gas Supply Corporation is a wholly-owned subsidiary of Consolidated Natural Gas Company. Other wholly-owned subsidiaries of Consolidated Natural Gas Company include: Consolidated Natural Gas Service Co., Inc.; The East Ohio Gas Co.; West Ohio Gas Co.; The Peoples Natural Gas Co.; The River Gas Co.; CNG Producing Co., Consolidated System LNG Co.; CNG Research Co.; CNG Coal Co.

April 26, 1982, to the extent that the motion suggests that this Court summarily reverse Mid Louisiana Gas Company, et al. v. FERC, 664 F.2d 530 (5th Cir. 1981), petitions for cert. filed, 50 U.S.L.W. 3840 (U.S. April 12, 1982) (No. 81-1889). 2/

In its motion AEPCO states:

> Also, this Court can consider whether it is appropriate to summarily reverse Mid Louisiana and summarily affirm West Virginia on the same grounds, as this petitioner maintains. This could well promote judicial economy. 3/

The West Virginia case referred to in AEPCO's motion is Pennzoil Company v. Public Service Commission of West Virginia, No. 81-1672 currently pending before the Court on a Petition for a Writ of Certiorari to the Supreme Court of Appeals for the State of West Virginia. Both petitions for certiorari raise the question of whether the Fifth Circuit erred in Mid Louisiana.

Although Consolidated firmly believes that the Fifth Circuit was correct in Mid Louisiana, for the following reason, Consolidated submits that it would be inappropriate for the

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2/ Petitions for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit have also been filed by Arizona Electric Power Cooperative, Inc., ___ U.S.L.W. ___ (U.S. April 23, 1982) (No. 81-1958) and the State of Michigan, ___ U.S.L.W. ___ (U.S. May 3, 1982) (No. 81-2042). As to the remaining issues raised by AEPCO's motion, Consolidated expresses no view and its failure to address those questions should not be viewed as acquiescence or agreement with AEPCO.

3/ Motion at 3. In its response to AEPCO's motion, the Public Service Commission of West Virginia states:

> Further, West Virginia supports AEPCO's request for summary reversal in Mid Louisiana.

Response at 3.

Court to consider summary disposition of Mid Louisiana at this time:

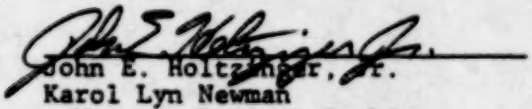
1. Three petitions for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit from Mid Louisiana Gas Company, et al. v. FERC, supra, and Consolidated Gas Supply Corporation, et al. v. FERC, 664 F.2d 530 (5th Cir. 1981) have been filed. The Solicitor General of the United States has been granted an extension of time to and including June 5, 1982, within which to file a petition for certiorari. At the very earliest, Respondents' oppositions to the petitions for certiorari already filed with the Court will be due on June 5, 1982. However, because of the extension of time granted to the Solicitor General, Respondents will be seeking an extention of time to and including 30 days from the date on which the Solicitor General's petition is filed or 10 days from June 5, 1982, if the Solicitor General elects not to seek certiorari.

2. In the Pennzoil case, which AEPCO suggests can be summarily decided in favor of West Virginia, Respondents have been advised by the office of the Clerk of the Supreme Court that the Court has invited the Solicitor General to file a brief expressing the views of the United States.

Consolidated does not believe that it would be appropriate for the Court to summarily decide the issues presented in Mid Louisiana before it has had an opportunity to hear from the United States in both Mid Louisiana and Pennzoil, and from the Respondents in Mid Louisiana. For this reason, Consolidated respectfully urges the Court to deny the suggestion of both AEPCO and The Public Service Commission of West Virginia to

summarily reverse the decision of the Fifth Circuit in Mid Louisiana.

Respectfully submitted,



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